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9 Attorneys for Defendant,  
10 State Farm Mutual Automobile Insurance Company

11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 CRYSTAL JO GOLDSMITH, Individually,  
14 Plaintiff,

15 vs.

16 STATE FARM MUTUAL AUTOMOBILE  
17 INSURANCE COMPANY, an Illinois  
18 Corporation, DOES I-X, and ROE  
19 CORPORATIONS I-X, inclusive,  
20 Defendant,

CASE NO.: 2:13-cv-00216-JCM-PAL

21 STIPULATION AND ORDER FOR  
22 DISMISSAL WITH PREJUDICE AND  
23 AGREEMENT FOR PRIVATE BINDING  
24 ARBITRATION

25 This Stipulation and Order of Dismissal With Prejudice and Agreement for Private and Binding  
26 Arbitration (hereinafter "Agreement") is entered into by Plaintiff, Crystal Jo Goldsmith ("Plaintiff"), and  
27 Defendant, State Farm Mutual Automobile Insurance Company ("State Farm"), (collectively referred to  
28 as the "Parties"), as an alternative method of resolving a dispute that has allegedly arisen from an May  
13, 2011, automobile accident and subsequent claims handling, which culminated in a lawsuit styled  
*Crystal Jo Goldsmith v. State Farm Mutual Automobile Insurance Company, et al*, currently pending in  
the United States District Court, District of Nevada, Case No. 2:13-cv-00216-JCM-PAL. Plaintiff is  
represented by Glen Lerner Injury Attorneys. State Farm is represented by Hall Jaffe & Clayton, LLP.

The following terms and conditions of this Agreement will become effective upon the signature  
by the Parties and the execution and filing of the same by this Court.

1. State Farm issued an policy of automobile insurance, Policy No. 0522-030-28A, which

1 provides, among other coverages, underinsured motorist ("UIM") coverage, subject to all terms,  
2 conditions, limitations of the policy and any applicable offsets.

3       2. In an effort to resolve all disputes and controversies between the Parties arising out of and  
4 relating to the subject automobile accident and subsequent claims handling, the Parties have agreed to  
5 place this matter into private binding arbitration, with all damages capped against State Farm at \$15,000,  
6 which is the amount available under State Farm's "each person" UIM policy limit after all applicable  
7 offsets.

8       3. For and in consideration of the mutual covenants and promises made herein, the Parties  
9 enter into this Agreement and agree to be bound by its terms as fully stated herein.

10       4. The Parties agree that the arbitration shall be binding and shall be the sole and final  
11 resolution and adjudication of all of Plaintiff's claims against State Farm, which in any way arise out of  
12 or relate to the May 13, 2011, accident, and subsequent claims handling or decision making. This clause  
13 and mutual promise is of the essence to this Agreement. The arbitrator's decision and award shall be the  
14 sole basis for recovery on these claims and shall be final and binding. The Parties agree that there shall  
15 be no right of appeal of the arbitrator's decision to any trial court, court of appeals, the Nevada Supreme  
16 Court, or to any other court, forum, person or entity, or the arbitrator himself. Likewise, the Parties  
17 agree that there shall be no right to submit a Motion for Reconsideration or similar or equivalent motion  
18 or request to the arbitrator.

19       5. The arbitrator shall not be informed concerning the "range of award" (discussed below)  
20 that the Parties have agreed upon. The arbitrator will only be asked to resolve the issue of Plaintiff's  
21 legal entitlement, if any, to UIM proceeds, subject to all terms, conditions, and offsets under the policy  
22 and law. In other words, the arbitrator shall determine fault for the accident (and apportion it  
23 appropriately, if necessary), and the extent of Plaintiff's damages by placing a fair and equitable total  
24 value (which includes medical specials, income loss, other special damages, and general damages) on  
25 the Plaintiff's claim, and the application of any of the policy's terms, offsets, conditions and exclusions,  
26 if applicable. The arbitrator will not be asked to and will not consider any alleged claims  
27 handling/decision-making issues or liability for extra-contractual claims, including, but not limited to,  
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1 breach of the implied covenant of good faith and fair dealing, statutory claims handling violations, or  
2 liability for punitive or other extra-contractual damages, as such extra-contractual claims and damages,  
3 have been and are expressly waived by Plaintiff and dismissed with prejudice by this Agreement.

4 6. The Parties will jointly select a single arbitrator to serve as the arbitrator of this case. The  
5 arbitrator will be Greg Hafen, Esq.

6 7. Plaintiff, through this Agreement, agrees to dismiss her present lawsuit with prejudice  
7 that is currently on file in the United States District Court, District of Nevada, with each party to bear its  
8 own fees and costs.

9 8. The Parties shall advise the arbitrator of an agreement for binding arbitration and proceed  
10 in a manner that is agreeable to the Parties and to the arbitrator. The Parties shall be allowed to conduct  
11 any reasonable discovery permitted under the Nevada Rules of Civil Procedure. The arbitrator shall  
12 resolve any and all discovery disputes, including the scope of permitted discovery. Subpoenas can be  
13 issued and enforced pursuant to NRS 38.233. Arbitration briefs and exhibits are to be submitted in  
14 accordance with the instructions and desires of the arbitrator.

15 9. The arbitration hearing will be held at a mutually agreed upon date.

16 10. The arbitrator shall be given discretion to conduct the arbitration hearing in an informal  
17 and expeditious manner allowing for such testimony or evidence as is needed to reach a decision. The  
18 parties may submit and the arbitrator may consider written expert reports consistent with the format  
19 requirements of Nev. R. Civ. P. 26(a)(2) in lieu of live expert testimony.

20 11. Regarding the Plaintiff's contractual UM claim against State Farm, the "range of award"  
21 herein shall be set at a \$0.00 "low" and capped at a \$15,000.00 "high." The "high" derives from the  
22 potential payment of the remaining amount of the UIM policy limit after all potential offsets. In this  
23 case, State Farm is entitled to \$101,000 in offsets, which derive from \$100,000 paid by the tortfeasor's  
24 insurance carrier, and \$1,000 paid by State Farm under the medical payments portion of the policy.

25 12. The only manner in which State Farm would be obligated to pay any UIM money is if the  
26 arbitrator concludes that the total value of Plaintiff's claim exceeds \$101,000. By way of example, if the  
27 arbitrator were to conclude that the total value of Plaintiff's claim was only \$80,000, then State Farm  
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1 would not be required to pay any UIM proceeds. By way of a second example, if the arbitrator were to  
2 conclude that the total value of Plaintiff's claim was \$110,000, then State Farm would be obligated to  
3 pay \$9,000 in new UIM money.

4 13. The maximum that State Farm would ever be required to pay Plaintiff under this  
5 Agreement is \$15,000.00, which is the available amount under the UIM "each person" policy limit.

6 By way of example, if the arbitrator were to conclude that the total value of Plaintiff's claim was  
7 \$130,000, then State Farm would only be obligated to pay Plaintiff the "high" of the range of award,  
8 which is \$15,000 in UM money. State Farm would not be required to pay any amount that exceeds  
9 \$15,000, and in such a circumstance, the excess award beyond the applicable offsets and the "high"  
10 against State Farm would automatically be reduced to \$15,000.

11 14. The arbitrator shall not be permitted to make an award of attorney fees, legal costs, or  
12 interest to any party. An Offer of Judgment will have no effect.

13 15. Payments of the sum awarded, as limited by the parameters set forth herein, shall be made  
14 no later than 20 days after service of the arbitrator's decision.

15 16. The Parties agree to equally share and pay for the arbitrator's fees and costs.

16 17. This Agreement is binding on the Parties, their heirs, executors, administrators, personal  
17 representatives, legal representatives, and other such persons or entities.

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1 18. The terms and conditions of this agreement may be modified upon the written and mutual  
2 agreement of the parties.

3 Dated this 14<sup>th</sup> of March, 2013.

Dated this 14<sup>th</sup> of March, 2013.

4 HALL JAFFE & CLAYTON, LLP

GLEN LERNER INJURY ATTORNEYS

5  
6 By Riley A. Clayton  
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By Justin G. Randall  
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Attorney for Plaintiff

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11 ORDER

12 IT IS SO ORDERED

13 Dated: March 19, 2013.

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15 James C. Mahan  
16 UNITED STATES DISTRICT COURT JUDGE  
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